

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

WEST VIRGINIA HIGHLANDS CONSERVANCY, INC.,
and SIERRA CLUB,

Plaintiffs,

v.

CIVIL ACTION NO. 3:11-0115

ERP ENVIRONMENTAL FUND, INC. and
RECEIVERSHIP ESTATE OF
ERP ENVIRONMENTAL FUND, INC.,

Defendants.


ORDER

Pending before the Court is Defendant's Motion for Referral of Dispute Under the Second Modified Consent Decree to the Special Master, ECF No. 243, and Plaintiff's Order to Show Cause and for Issuance of an Emergency Order Preserving the Status Quo, ECF No. 244.

For reasons that will be outlined in a forthcoming memorandum opinion, the Court **DENIES** Defendant's Motion for Referral of Dispute, ECF No. 243, and **GRANTS IN PART AND DENIES IN PART** Plaintiff's Motion, ECF No. 244. The Court **DENIES** Plaintiff's order to show cause, but **FINDS** that ERP and its successor-in-interest, Special Receiver, breached the Second Modified Consent Decree by authorizing surface mining not necessary and incidental to reclamation at a site formerly owned or operated by Patriot Coal Corporation or one of its subsidiaries. ECF No. 244; ECF No. 105 ¶ 63. The Court therefore **ORDERS** that Defendant cease any actions that would lead to surface mining at Buck Fork Surface Mine.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: September 2, 2022



ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE